The Commission suggests that a uniformly applied "hybrid" propagation formula that considers the propagation characteristics of both water and land would be appropriate in the Gulf and coastal regions.[25] This suggestion received no support from the commenting parties. Among the commenters that progressed beyond merely arguing for the status quo with respect to propagation formulas, ALLTEL, GTE, PetroCom and Coastel express varying degrees of sensitivity to the problem of using either the land-based propagation formula or a water-based propagation formula based solely on the location of the cell site.[26]

The problem has been simply and correctly framed by the Commission: radio signals over land have different propagation characteristics than radio signals over water.[27] However, the answer lies not with the creation of yet another formula. Coastel agrees with the other commenters that a new formula would be administratively unwieldy and unnecessarily complex. Instead, the appropriate use of the existing formulas will demonstrate what the carriers already know and experience -- that the signals from the land-based carriers' transmitters currently overpower the signals from the Gulf carrier's transmitters.

As discussed more fully infra, in the case of proposed land-based cell sites located within 35 miles of the coastline, the land-based carrier applicant should be required to include two calculations and depictions of the SABs using the existing land-based and water-based

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[25]*Notice* at ¶¶ 37-38.

[26]See e.g., ALLTEL Comments at 3-4; GTE Comments at 12-13; PetroCom Comments at 10, ¶ 13; and Coastel Comments at 29-30.

[27]*Notice* at ¶ 37.

propagation formulas. In this manner, the SABs using the water-based formula can be used to determine whether the SABs extend into the Gulf. The SABs using the land-based formula can be used for purposes of operational relationships between land-based systems.

D. Land-Based Transmitters Are the Only Solution to the Unique Problems of the Gulf Carriers Serving the Coastal Waters of the Gulf

All of the land-based carriers that commented in this proceeding predictably oppose allowing the Gulf carriers to place a transmitter in their markets without their consent.[28] Interestingly, while the Commission should have made such a proposal, it did not. What the Commission proposed was to allow Gulf carriers to place transmitters on land with the consent of the affected land-based carrier.[29] Nonetheless, the land-based carriers' reflexive opposition to the possibility of nonconsensual placement of land-based transmitters by Gulf carriers is easy to comprehend. Experience tells us that leaving consent rights in the hands of the land-based carriers, whether under the current policy or under Section 22.912 of the Commission's rules, is tantamount to a continued prohibition on the placement of land-based transmitters by Gulf carriers.

By proposing to change from its "no land-based transmitter site without consent of the affected land-based carrier" to a land-based transmitter site only with the consent of the affected land-based carrier," the Commission accomplishes nothing. This change has no tangible benefit to Gulf carriers. Faced with a choice between consenting to a land-based transmitter site for a

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[28]See, e.g., Southwestern Bell Mobile Comments at 5-7; AT&T Comments at 6-9; MobileTel Comments at 4-6; Palmer Comments at 12.

[29]Coastel Comments at 24-28, Notice at ¶¶ 39-40, and 47 C.F.R. § 22.912.

Gulf carrier and filing its own unserved area application to itself serve the area, the land-based carrier continues to have no incentive to give its consent. However, by allowing Gulf carriers to place cellular transmitters on land, the Commission would address the impact on Gulf carriers of the unique characteristics of the Gulf that the Court found so important in its remand. Failure to do so in the context of the Commission's proposal to bifurcate the Gulf simply provides the land-based carriers with the benefit of the unique characteristics of the Gulf.

Undoubtedly, the key to resolving the unique situation in the Gulf is proper handling of land-based transmitters by Gulf carriers. The significance of land-based transmitters is to provide to Gulf carriers a real opportunity to provide service to a water-based market in which Gulf carriers are extremely limited in their abilities to find cell site locations. That such carriers find themselves at the mercy of the location, activation, and movement of oil drilling platforms has been well documented.[30] Because of these unique circumstances, denial to Gulf carriers of the right to locate cell sites on land is a denial to Gulf carriers of their ability to serve the Gulf in the same way as any other cellular licensee has enjoyed in its land-based market. Moveover, such a policy is fundamentally inconsistent with the Court's focus on the need for regulatory flexibility to allow the existing Gulf carriers to serve the Gulf. Unique problems require unique solutions. In this case, the solution must involve land-based transmitters by Gulf carriers.

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[30]Petroleum Communications, Inc. v. FCC, 22 F.3d at 1173; Coastel Comments at 8-10.

III. There Are Simpler, More Efficient Solutions That Do Respond To The Court's Remand and Serve the Public Interest.

As discussed supra, the Commission's proposal to bifurcate the Gulf into two zones is regulatory overkill fraught with legal vulnerabilities and nonresponsiveness to the Court's remand. The Commission need not and should not ride roughshod over the rights of Gulf carriers with such an extreme regulatory scheme. Instead, the Commission must adhere to the Court's remand directive and provide regulatory flexibility the enables the Gulf carriers to overcome the obstacles posed by the unique characteristics of the Gulf. Coastel suggests that there are certain actions that the Commission can take that, as an indivisible package, would address both the Court's and the Commission's concerns.

A. The Commission Should Conclusively Depict The Boundary Between The Gulf And The Adjacent Land Markets.

As an initial matter, the Commission should conclusively depict the boundary between the Gulf and the adjacent land markets in order to eliminate uncertainty between carriers. The coastline is currently defined in accordance with the Submerged Lands Act, 43 U.S.C. 1301, as "the line of ordinary low water along that portion of the coast that is in direct contact with the open sea and the line marking the seaward limit of inland waters."[31] Experience has shown that absent a graphical depiction of the coastline, Gulf and land-based carriers have and will continue to become entangled in unnecessary litigation regarding its exact location.[32] As such,

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[31] Id.

[32] See, e.g., Formal Complaint of Bachow/Coastel, L.L.C. against MobileTel, Inc. filed June 23, 1997, File No. WB/ENF-F-97-013.

Coastel proposes that the Commission graphically depict the coastline on a 1 to 250,000 scale map so that all parties know the exact boundary between the Gulf and the adjacent land markets.

B. The Commission Should Maintain The GMSA As The CGSA Of The Gulf Carriers, But Allow Land-Based Carriers To Have Certain Limited Non-Consensual De Minimis Extension Rights.

At present, since the CGSA of Coastel is the entire Gulf, Section 22.912(a) prohibits even de minimis extensions into the Gulf without the consent of the co-channel Gulf carrier.[33] Thus, strictly speaking, land-based carriers are prohibited from extending into the Gulf, regardless of whether the Gulf carrier covers the extension area with its own SAB contours. Nonetheless, there are a considerable number of significant extensions into the Gulf. Similarly, because of the unique characteristics of the Gulf and the Commission's prohibition against land-based transmitters, Gulf carriers have not been able to cover these areas of their own market with their own SAB contours.

The Commission should maintain the Gulf as the CGSA of Gulf carriers, thereby recognizing the unique characteristics of providing cellular service in the Gulf and the Court's expressed concern with curtailing the flexibility of the Gulf carriers. However, in order to assure that cellular service is and remains available in coastal waters, it should allow de minimis extensions into the Gulf without the Gulf carriers' consent but only where the Gulf SABs are not

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[33] Coastel acknowledges that PetroCom's CGSA is currently defined as the western half of the Gulf and that PetroCom has a currently pending application to expand its CGSA to include the entire GMSA. Coastel agrees with PetroCom's statement that the Commission must treat similarly situated parties alike or provide adequate justification for its disparate treatment. See PetroCom Comments at 3-9, ¶¶ 4-11. As such, Coastel supports PetroCom's application to expand its CGSA to the entire GMSA.

currently present. Should the Gulf carrier subsequently begin to serve the area containing the extension, the Gulf carrier would continue to have the right, pursuant to Section 22.911(d) to require the extending carrier to pull back the extension.

C. Any Unserved Area In The Coastal Waters of the Gulf Should Be Addressed By Allowing Gulf Carriers To Place Transmitters on Land Under Certain Conditions.

The Commission's proposal to carve a Coastal Zone out of the Gulf-carriers' CGSAs in an attempt to meet a perceived unmet demand for cellular service in the coastal region of the Gulf is ultimately unnecessary. Despite comments to the contrary, the vast majority of the Coastal Zone bordering the States of Texas, Louisiana, Mississippi, and Alabama is currently served by the Gulf carriers.[34] Coastel clearly stated that the only part of the proposed Coastal Zone that currently has significant unserved areas is off the coast of Florida.[35] Likewise, PetroCom states that based on its 15 years of experience in the cellular industry it is not aware of any significant number of customer complaints concerning the reliability of service received by customers of land-based systems in the Gulf region.[36]

Pursuant to the Commission's rules, an "unserved area" must consist of a minimum of 50 square miles.[37] By this standard, there are few, if any, unserved areas in the proposed Coastal Zone bordering these states that is currently available for licensing under the Commission's proposal. While there is significant unserved area off the coast of Florida, this

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[34]See, e.g., MobileTel Comments at 4, BellSouth Comments at 2-4.

[35]Coastel Comments at 33.

[36]PetroCom Comments at 12, ¶ 15.

[37]47 C.F.R. § 22.951.

is the result of the unique characteristics of the Gulf that the Commission must -- and fails to -- address with its proposals in a manner that facilitates the provision of cellular service to those areas by the Gulf carriers.

One reason for the land-based carriers' incorrect conclusions that the Gulf carriers are not adequately serving the Gulf is that the land-based carriers are themselves preventing the Gulf carriers from adequately serving the proposed Coastal Zone because the Commission's rules provide no incentive for them to do otherwise. As summarized in the Engineering Report of Tom L. Dennis ("Dennis Report"):

> Because of differences in the land-based and Gulf propagation formulas the "best server line" between the Gulf and land-based service areas has been pushed as much as 20 kilometers offshore. The land-based carrier's signals are overpowering the Gulf carrier's signals in the area between the best server line and the coastline. As a result, the land-based carriers are serving offshore customers, even in those areas where the Gulf carrier has SABs, simply because the land-based carrier is the best server in those portions of the Gulf, not because the area between the best server line and the coastline is unserved by the Gulf carrier.[38]

Coastel agrees with PetroCom that rather than attempting to carve out and auction unserved areas that simply do not exist, the Commission should focus on allowing Gulf and land-

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[38]Dennis Report at 2. Mr. Dennis is a registered Professional Engineer in the State of Texas. Since 1953, Mr. Dennis has been actively engaged in communications hardware and system design, including propagation analysis. The Commission's formula for calculating over water coverage of cell sites, contained in Section 22.91(a)(2) of the Commission's rules, was developed by Mr. Dennis and proposed in response to the *Further Notice of Proposed Rulemaking* at CC Docket No. 90-6, released October 8, 1991. He has been retained by Coastel, or its predecessor since 1992 to perform various engineering functions related to Coastel's operations of its cellular radiotelephone system in the Gulf. See Declaration of Tom L. Dennis, PE, attached to Formal Complaint of Bachow/Coastel, L.L.C. against MobileTel, Inc. filed June 23, 1997.

based carriers to freely place transmitters, on both land and in the Gulf, to best serve the coastline area of the Gulf within their own markets.[39] Gulf carriers must be allowed to place transmitters on land without the consent of the land-based carrier but subject to specific conditions limiting the extent of extensions in the affected land-based market. As demonstrated in the Dennis Report, it is possible to draft a rule that will permit Gulf carriers to locate transmitters on land without unreasonably interfering with the service of the adjacent land-based carrier.[40]

In the alternative, the Commission could establish conditions that would ensure that there is no unreasonable interference with the service provided by land-based carriers. As described below, these conditions would include the use of state of the art highly directionalized transmitting antenna arrays aimed in the direction of the Gulf, reasonable limits on the amount of back-lobe power, and recognition that the land-based carrier must remain the "best server" within its market.

The Commission's approach to the "land transmitter" issue has been marked by equivocation. In 1983, the Commission stated that Gulf licensees would be required to design their systems to avoid "significant overlap" of reliable service-area contours with land-based systems.[41] In 1984, the Commission stated that transmitter contours were permitted to extend

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[39]PetroCom Comments at 12, ¶ 15. Coastel agrees that if a land-based carrier can best serve its own market by using a transmitter in the Gulf they should have the right to do so as long as that service does note interfere with the Gulf carrier's service.

[40]Dennis Report at 2.

[41]Petroleum Communications, Inc., *Memorandum Opinion and Order*, 54 RR 2d (P & F) 1020 (1983).

into neighboring MSAs if they are considered de minimis extensions and that Gulf carriers were permitted to erect land-based transmitting facilities, provided that they minimized interference with land-based systems.[42] In 1985, the Common Carrier Bureau reversed ground and ruled that Gulf carriers could not place transmitters on land areas inside the "coastline" and, to the extent that water-based carriers had already constructed transmitters on land, such transmitters would be permitted only on an interim basis, for a maximum of six months.[43] In 1986, the Commission ruled that Gulf carriers should not be permitted to place transmitters on land, even on an interim basis, without the land-based carrier's consent.[44] In 1987, the Commission concluded that land-based transmitters could not be "reengineered" in the Gulf area to avoid "significant incursions" over land and, therefore, it would not permit Gulf carriers to operate land-based transmitters without the land-based carriers' consent.[45] As Coastel predicted and the Court noted, there has been no instance of a consent by a land-based carrier to allow a Gulf carrier to operate a land-based transmitter.[46] Thus, the "no land transmitter without consent"

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[42]Petroleum Communications, Inc., *Memorandum Opinion and Order on Reconsideration*, 56 RR 2d (P & F) 1651 (1984).

[43]Petroleum Communications, Inc., *Memorandum Opinion and Order*, 1985 FCC LEXIS 2798 (CCB 1985).

[44]Petroleum Communications, Inc., *Order on Reconsideration*, 1 FCC Rcd 511 at ¶ 16 (1986).

[45]Petroleum Communications, Inc., *Order on Reconsideration*, 2 FCC Rcd 3695 (1987).

[46]Comments of RVC Services, Inc., to the *Further Notice of Proposed Rulemaking*, CC Docket No. 90-6, p.3 (January 16, 1992); Petroleum Communications, Inc. v. FCC, 22 F.3d at 1172, n.8.

requirement has amounted to an absolute prohibition against land-based transmitters by Gulf carriers.

The Commission's prohibition against land-based transmitters by Gulf carriers without the land-based carriers' consent was expressly premised on its findings that such transmitters would have "significant service contour overlap with land-based systems" and "that there is apparently no way in which land-based transmitters can be 'reengineered' in the Gulf area to avoid significant incursions over land."[47] First, these findings are more than 10 years old and are necessarily based on the state of the art at that time. Second, the Commission's concern was with **significant** overlap or extensions rather than with any overlap or extensions.

In short, the Commission was expressing its belief that, at that time, the state of the technical art would not permit the placement of a land-based transmitter without a **significant** overlap or incursion. As a result, Section 22.911(a)(4) of the Commission's rules virtually guaranteed a static view of the technology by requiring that the number used in the CGSA determination formula for the effective radiated power of a radial must "not be less than 0.1 Watt or 27 dB less than (1/500 of) the maximum ERP in any direction." When this rule was adopted in 1992, the FCC explained its purpose as follows:

> These minimum limits, in addition to preventing the formula from producing misleading results, will discourage applications proposing systems with extreme technical design parameters which, in all likelihood, could not be met or maintained in the field.

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[47]Petroleum Communications, Inc., *Memorandum Opinion and Order*, 54 RR 2d (P & F) 1020, ¶ 20 (emphasis added) and Petroleum Communications, Inc., *Order on Reconsideration*, 2 FCC Rcd 3695, ¶ 13 (emphasis added).

This rule precludes the use of modern antennas that have power characteristics below the specified minimum limits, whose technical design parameters are not extreme, and that are capable of meeting and maintaining there technical design parameters in the field.

The truth of the matter is that much has changed in transmitting antenna technology during the last 5 years. In particular, antennas with actual 40 dB front-to-back ratios have been and are currently being used in a commercial setting by many cellular systems.[48] These antennas, pointed at the Gulf from a coastal site with no buildings or other obstructions to cause re-radiation and effective reduction of the front-to-back ratio, can be fully expected to pose virtually no risk of subscriber capture. In fact, the closer such an antenna is located relative to a co-channel licensee's antenna, the less likely it is that the Gulf carrier would be the "best server" anywhere on land. Use of these modern log-periodic antennas does not produce misleading results or otherwise reflect extreme design parameters that have not already been met in the field.

As fully discussed in the Dennis Report the technology exists to engineer and implement land-based call sites that would serve the Gulf with essentially no interference of SAB extension into a land-based carrier's MSA or RSA.[49]

> It is recognized that the land-based carriers need a strong signal along the shoreline to serve the beach communities and tourists. This strong signal, however, need not come at the Gulf carriers' expense. cell sites located on or near the shoreline (e.g., at beach-

[48] Appended as Exhibit 2 to the Dennis Report are manufacturers' technical specifications for several such antennas. All three of the antennas for which specifications are included have front-to-back ratios of at least 40 dBu. One antenna has a front-to-back ratio of 45 dBu.

[49]Dennis Report at 1.

> front hotels) can utilize directional antennas to cover the land area while providing protection to the Gulf. The Gulf carriers, meanwhile, should be afforded the opportunity to use new technology antenna, with actual 40 dB or greater front-to-back ratios, to operate onshore without capturing onshore customers on the land carriers.[50]

Use the result of actual field testing, Mr. Dennis was able to formulate a "Signal Ratio Test" that, if met, would virtually ensure that a Gulf carrier's land-based transmitter is not interfering with the service of the adjacent land-based carrier.

> A 6 dB differential in signal strength is all that is required to ensure that one carrier remains the best server in a given area. The Commission could grant Gulf carriers the unilateral right to locate transmitters on land by meeting a simple "Signal Ratio Test." The Signal Ratio Test would require that the Gulf carrier's signal remain 6 dB below the land-based carrier's signal at all point over land, except in the near field. The near field would be defined as the area within 100 meters of co-located transmitters and 250 meters of the Gulf carrier's transmitter, if not co-located with the land-based carrier's transmitter.

As an alternative to a Signal Ratio Test, the Commission could adopt conditions that would ensure that the land-based carrier remain the best server in its MSA/RSA. These conditions could include: (1) the use of a highly directional, state of the art (40 dB or greater front-to-back ratio) antenna pointed at the Gulf; (2) location of the Gulf carrier's transmitter within 2 kilometers of a land-based carrier site (or require land-based carrier to allow collocation if feasible);[51] and (3) maximum shielding. Satisfaction of these conditions and, perhaps even

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[50]Dennis Report at 9.

[51]As discussed in the Dennis Report, co-location or near co-location makes land-based transmitters of Gulf carriers practical. Dennis Report at 9. Even in those instances where co-location is not possible, the log-periodic type of antenna still provides enough signal attenuation to the rear to enable the operation of a Gulf carrier's land-based transmitter with minimal

the Signal Ratio Test would establish a presumption that a Gulf carrier's land-based transmitter is not interfering with the land-based carrier's service. This presumption could be rebutted by the affected land-based carrier with a reasonable showing that capture is occurring. Nonetheless, the Commission must create a regulatory environment within which land-based carriers have a reason to facilitate the efforts of Gulf carriers to place cell sites on land. For example, land-based carriers should be required to facilitate co-location. As demonstrated by Palmer, the issue is "not one of coverage, i.e. the propagation of the signal, but rather reliable service, i.e., the existence of interference preventing use of the service."[52]

Thus, if a Gulf carrier can locate land-based transmitters inside the "coastline" without **significantly** interfering with the service of the land-based carrier, it should be allowed to do so without the consent of the land-based carrier. Of course, such placement would only be done after appropriate frequency coordination with the land-based carrier. However, with 444 individual channels, there is no reason why two carriers cannot coordinate frequency usage along their common border, regardless of whether that border is a coastline, a mountain range or a plateau. Different topography in different parts of the country presents the bordering carriers with different sets of frequency coordination challenges. The border between the Gulf and the adjacent land cellular markets, once properly identified, is no different in that respect.

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interference to the land-based carrier's service. Dennis Report at 10.

[52]Palmer Comments at 6.

D. Land-Based Carrier Sites That Project A Signal Over Gulf Waters Must Be Depicted Using The Commission's Water-Based Formula.

Furthermore, Coastel agrees with the Commission's conclusion that the same propagation formula should apply to all contours within the Gulf, regardless of whether the transmitter is waterborne or land-based. However, the Commission should not adopt its proposal to use a hybrid propagation formula for cell sites that are partially or totally over water. Such a formula will only further misrepresent the real world propagation of cellular signals over water and, to a lesser extent, over land. Moreover, it would be an administrative nightmare to once again change the depiction of the cell contours.

Instead, Coastel generally agrees with the proposal of PetroCom to use the Gulf formula for calculating contours that extend over water.[53] Coastel suggests that the Commission require any licensee that proposes a land-based cell whose SAB, computed using the water-based formula, has any extension over coastal waters in the Gulf to provide two SAB depictions based on the land-based and Gulf formulas. The land-based formula would be used to determine extensions between land-based markets, and the Gulf formula would be used to determine extensions over coastal and Gulf waters. In this manner, when a Gulf carrier proposes to place a cell site on land, the Commission would review the SAB computed using the land-based formula to determine whether the extension over land is **significant**. Similarly, when a land-based carrier proposes an extension over water, the Commission would review the SAB computed using the Gulf formula to determine whether the extension over water is de minimis.

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[53] See PetroCom Comments at 8, ¶ 13.

In order to avoid confusion, if a land-based cell site, using the water-based formula, does not reflect an SAB extension over water, there would be no need to the licensee to provide an SAB using the Gulf formula. On the other hand, if a Gulf carrier proposes a Gulf cell site that, using the Gulf formula, indicates an extension over land, the Commission would look to the land-based formula SAB to determine whether, in fact there is an extension and if so, its extent.

As discussed in the Dennis Report, "It is clearly inappropriate to apply the land-based propagation formula to all radials of land-based stations located within 35 miles of the shoreline."[54] Because of the differences in the land-based and Gulf propagation formulas, the land-based formula does not accurately predict the limit of the land-based carrier's sell site coverage over the Gulf.

> For example, a land-based cell site located 22.4 kilometers from the Gulf shoreline would, by current rules, have no de minimis extension into the Gulf. It would, however, have a 24.8 kilometer extension into the Gulf when calculated by the water-based coverage formula. This is particularly true in the usual case where the intervening terrain between the cell site and the shoreline is flat and often consists of salt march. Based on actual measured data from testing performed, extensions of this type are real and land-based cells are presently serving offshore customers. Land-based carriers are able to serve offshore customers, even in area where the Gulf carriers have SABs, simply because the land-based carriers are the best server in those portions of the Gulf, not because this is unserved area.[55]

As a result, all radials from a land-based carrier's transmitter that are located within 35 miles of the shoreline should be recalculated using the water formula and the coverage area re-

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[54]Dennis Report at 6.

[55]Dennis Report at 6.

plotted for the over-water portion. This will more realistically predict the coverage of the land-based carriers over water.

Coastel believes that the suggestions listed in A through D above address the Court's concern -- that the Gulf carriers have the regulatory flexibility to allow them to overcome the obstacles posed by the unique characteristics of the Gulf -- and the Commission's concern -- that cellular service be provided to currently unserved areas of the Gulf where there is sufficient demand to warrant such service.

E. The Commission Must Address Interconnection, Enhanced 911, And Universal Service As These Issues Uniquely Impact On The Gulf Carriers.

Coastel supports PetroCom's call on the Commission to "ensure timely and consistent regulatory treatment regarding cellular operations in the GMSA" by addressing the issues of interconnection, enhanced 911, and universal service, as these issues impact on the Gulf carriers.[56] As discussed in Coastel's comments, the Commission must ensure that the unique characteristics of the Gulf carriers are not used by the land-based carriers to force the Gulf carriers into an unfavorable interconnection arrangement. For example, because there is no local landline telephone exchange carrier in the Gulf with whom the Gulf carriers can interconnect, the Gulf carriers have no choice but to interconnect with the landline telephone companies in the cellular markets adjacent to the Gulf. Some of these same landline telephone companies operate the cellular systems that border the Gulf and refuse to provide interconnection to the Gulf carriers on a transport and termination basis. Instead these companies insist on treating the Gulf

[56]PetroCom Comments at 19-23.

carriers as interexchange carriers subject to access charges. Due to the Commission's failure to act on this issue, the Gulf carriers have been unable to obtain less expensive, more traditional CMRS/LEC interconnection.[57] As such, Coastel joins PetroCom in requesting that the Commission adopt a rule that specifically extends equal interconnection rights to Gulf carriers by stating that they are not interexchange carriers for purposes of interconnecting with LECs.

IV. It Is Not In The Public Interest To License Any Additional CMRS Services In the Gulf.

Finally, Coastel agrees with comments that the Commission should not license any additional commercial mobile radio services in the Gulf. As demonstrated by the Darby Report attached to PetroCom's comments:

> [C]urrently licensed and duly authorized capacity, including incumbent suppliers in the GMSA and firms that are licensed to provide service there, is likely to be sufficient to meet reasonably anticipated growth in demand at rates and with service quality dimensions that reflect an effectively competitive marketplace.[58]

Not only would the licensing of additional CMRS service not benefit the public interest, "there is some risk that granting additional licenses to serve the market will actually reduce the expected economic performance of the wireless market in the GMSA."[59]

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[57]Coastel Comments at 30.

[58]Darby Report at 2.

[59]Darby Report at 2.

WHEREFORE, for the foregoing reasons, the Commission should not adopt the proposals contained in its *Second Further Notice of Proposed Rulemaking* in the captioned proceeding.

Respectfully submitted,

BACHOW/COASTEL, L.L.C.

By: Richard Rubin

Richard Rubin
Robert E. Stup, Jr.
FLEISCHMAN AND WALSH, L.L.P.
1400 16th Street, N.W.
Sixth Floor
Washington, D.C. 20036
(202) 939-7900
Its Attorneys

August 4, 1997

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CERTIFICATE OF SERVICE

I, Robert S. Childress, a secretary at the law Firm Fleischman and Walsh, L.L.P., hereby certify that a copy of the foregoing "Reply Comments of Bachow/Coastel, L.L.C." was served this 4th day of August, 1997, via first class mail, postage prepaid, upon the following:

*David Furth, Chief
Commercial Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
2100 M Street, N.W.
7th Floor
Washington, D.C. 20554

*Stephen Markendorff, Chief
Commercial Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
2100 M Street, N.W.
7th Floor
Washington, D.C. 20554

*B.C. Jay Jackson, Jr.
Commercial Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
2100 M Street, N.W.
7th Floor
Washington, D.C. 20554

*Zenji Nakazawa
Commercial Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
2100 M Street, N.W.
7th Floor
Washington, D.C. 20554

*ITS
Federal Communications Commission
2100 M Street, NW
Suite 140
Washington, DC 20037

James F. Ireland
COLE, RAYWID & BRAVERMAN, L.L.P.
1919 Pennsylvania Avenue, N.W.
Suite 200
Washington, D.C. 20006

Judith St. Ledger-Roty
Paul G. Madison
Peter A. Batacan
KELLEY DRYE & WARREN, LLP
1200 19th Street, N.W.
Suite 500
Washington, D.C. 20036

Jill Lyon
Director of Regulatory Relations
American Mobile Telecommunications
Association, Inc.
1150 18th Street, N.W.
Suite 250
Washington, D.C. 20036

Howard J. Symons
Michelle M. Mundt
Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
701 Pennsylvania Avenue, N.W.
Suite 900
Washington, D.C. 20004

Cathleen A. Massey
Douglas I. Brandon
Vice Presidents - External Affairs
AT&T Wireless Services, Inc.
1150 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036

Wayne V. Black
Nicole B. Donath
Keller and Heckman LLP
1001 G Street
Suite 500 West
Washington, D.C. 20001

William L. Roughton, Jr.
Associate General Counsel
PrimeCo Personal Communications, L.P.
1133 20th Street, N.W.
8th Floor
Washington, D.C. 20036

Wayne V. Black
Brian Turner Ashby
KELLER AND HECKMAN, LLP
1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001

George Y. Wheeler, Esq.
KOTEEN & NAFTALIN, L.L.P.
1150 Connecticut Avenue, N.W.
Suite 1000
Washington, D.C. 20036

Brian T. O'Connor
Director, External Affairs
Aerial Communications, Inc.
8410 West Bryn Mawr
Suite 1100
Chicago, IL 60631

Gene DeJordy, Esq.
Western Wireless Corporation
2001 NW Sammamish Road
Suite 100
Issaquah, WA 98027

Andre J. Lachance
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036

Kurt A. Wimmer
Donna M. Epps
COVINGTON & BURLING
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20044

Kevin C. Gallagher
Senior Vice President
General Counsel and Secretary
360° Communications Company
8725 W. Higgins Road
Chicago, IL 60631

Kathryn A. Zachem
WILKINSON, BARKER, KNAUER & QUINN
1735 New York Avenue, N.W.
Washington, D.C. 20006

William B. Barfield
Jim O. Llewellyn
1155 Peachtree Street, N.E.
Suite 1800
Atlanta, GA 30309-2641

David G. Frolio
David G. Richards
1133 21st Street, N.W.
Washington, D.C. 20036

Richard S. Myers
Jay N. Lazrus
MYERS KELLER COMMUNICATIONS LAW GROUP
1522 K Street, N.W.
Suite 1100
Washington, D.C. 20005

Jerome K. Blask
Daniel E. Smith
GURMAN, BLASK & FREEDMAN, CHARTERED
1400 Sixteenth Street, N.W.
Suite 500
Washington, D.C. 20036

Samuel Klein
Chairman
Council of Independent
Communications Suppliers
1110 N. Glebe Road
Suite 500
Arlington, VA 22201

David L. Hill
Audrey P. Rasmussen
O'CONNOR & HANNAN, L.L.P.
1919 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20006

Carol L. Tacker
Vice President and General Counsel
Glen A. Glass
Vice President and General Counsel
Southwestern Bell Wireless Inc.
17330 Preston Road, Suite 100A
Dallas, TX 75252

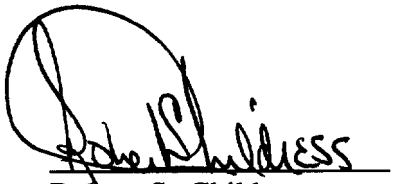
Robert S. Foosaner
Lawrence R. Krevor
Laura L. Holloway
Nextel Communications, Inc.
1450 G. Street, N.W.
Suite 425
Washington, D.C. 20005

Glenn S. Rabin
Federal Regulatory Counsel
ALLTEL Corporate Services, Inc.
655 15th Street, N.W.
Suite 220
Washington, D.C. 20005

George L. Lyon, Jr.
LUKAS, MCGOWAN, NACE &
GUTIERREZ, CHARTERED
1111 19th Street, N.W.
Suite 1200
Washington, D.C. 20036

Gerald S. McGowan
Terry J. Romine
Marjorie Giller Spivak
LUKAS MCGOWAN NACE &
GUTIERREZ, CHARTERED
1111 Nineteenth Street, N.W.
Suite 1200
Washington, D.C. 20036

Caressa D. Bennet
Gregory W. Whiteaker
BENNETT & BENNETT, PLLC
1019 Nineteenth Street, N.W.
Suite 500
Washington, D.C. 20036



Robert S. Childress

* Via Hand Delivery

DECLARATION

I, Tom L. Dennis, hereby state the following:

1. I received a B.S. degree in Electrical Engineering from The University of Texas in 1953 and I have been actively engaged in communications hardware and system design, including propagation prediction and analysis since that date.

2. I was Vice President of Engineering for Airfone, Inc. during the system design and implementation phases and directed numerous 900 MHz propagation studies.

3. I am a Registered Professional Engineer in the State of Texas, Certificate Number 68065.

4. The "Flagship Hotel" report enclosed as an exhibit with this report was prepared under my direction and all test data and conclusions were made under my direction.

5. The formula presently in the FCC rules for over water coverage, Section 22.911(a)(2) was developed by me, as a modification of an FCC proposed formula, and was included in a response to the Further Notice of Proposed Rulemaking, CC Docket No. 90-6, released October, 1991.

6. I hereby declare under penalty of perjury that all data and conclusions in this Engineering Report are true and correct to the best of my personal knowledge and belief. Executed this 31 day of July, 1997.

Tom L Dennis

Tom L. Dennis, PE